

Court File No.: CV-12-9545-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**BETWEEN:**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 3113736 CANADA LTD. 4362063 CANADA  
LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.**

**RESPONDING RECORD  
OF DOMFOAM INC.  
(ON APPLICANTS' MOTION TO ADDUCE EVIDENCE)**

**FRED TAYAR & ASSOCIATES  
Professional Corporation  
65 Queen Street West | Suite 1200  
Toronto, ON M5H 2M5**

**FRED TAYAR – LSO No. 23909N  
COLBY LINTHWAITE – LSO No. 49599K  
T: 416-363-1800  
F: 416-363-3356**

**Lawyers for Domfoam Inc.**

**TO: THE SERVICE LIST**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**B E T W E E N:**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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LTD., and A-Z SPONGE & FOAM PRODUCTS LTD.**

**I N D E X**

Tab

- 1 Endorsement of Justice Hainey dated August 27, 2018.
- 2 Answers to Undertakings given by Jacques Vincent at his cross examination held on November 20, 2018.

Tab 1

9:30 A.M.  
COUNSEL SLIP

H1

COURT FILE NO CV-12-9545-00CL DATE AUG 27, 2018

3113736 CANADA LTD) et al. <sup>NO ON LIST</sup> 3B  
A-Z SPONGE & FOAM PRODUCTS LTD)

TITLE OF  
PROCEEDING

COUNSEL FOR:  
PLAINTIFF(S) PHONE & FAX NOS  
APPLICANT(S) *moving party* FRED TAYAR tel (416) 363-1800  
PETITIONER(S) fax (416) 363-3356

COUNSEL FOR:  
DEFENDANT(S) PHONE & FAX NOS  
RESPONDENT(S) Alexandra Teodorescu for (T.) 416-596-4279  
3113736 Canada Ltd., 4362063 (F.) 416-594-2506  
Canada Ltd. and A-Z Sponge +  
Foam Products Ltd. ateadorescu@blanxy.com

August 27/18

The parties shall  
comply with the attached  
schedule. Counsel shall  
schedule a hearing before  
Melton-Siegel J. with  
The commercial list

Office for a date when  
he is sitting in  
November or December

Halsey J

## Schedule

Moving Party's record - September 14<sup>th</sup>

Responding Party's record - October 5<sup>th</sup>

Reply materials - October 15<sup>th</sup>

Examinations to be completed by November 9<sup>th</sup>

Haining J

August 27, 2018

Tab 2

**UNDERTAKINGS and ANSWERS**  
**Jacques Vincent**  
**Pursuant to his cross-examination held on November 20, 2018**

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1. Ask your client if he saw the pleadings from the Kansas City class action lawsuit re Bayer and BASF;

**NO**

2. Ascertain whether your client did an investigation about the pending U.S. lawsuit in late 2011 or early 2012?

**NO**

3. Ask your client when it first saw (if it did see) Exhibit "B" to the Vallecoccia Affidavit (i.e. the urethane anti-trust litigation website on the internet);

**In Tony's October 16, 2018 affidavit**

4. Ask Mr. Pomerantz if he saw a copy of the Order found at the Vallecoccia Affidavit at Exhibit "D";

**NO**

5. Ask Mr. Pomerantz when he first saw Exhibit "E" to the Vallecoccia Affidavit;

**He had not until now**

6. Ascertain whether Mr. Howard told Mr. Pomerantz that Howard had signed the contract with Recovery found at Vallecoccia's Affidavit at Exhibit "C";

**NO**

7. Ask whether Mr. Pomerantz ever contacted or communicated with Recovery?

**NO**

8. Advise whether any employees of Domfoam Inc. had been monitoring the US lawsuit (between 2012 and May 2018);

**Terry Pomerantz had never asked any Domfoam employees to monitor the US lawsuit between 2012 and May 2018, and is unaware of any monitoring having been conducted.**



**UNDERTAKINGS and ANSWERS  
Jacques Vincent on cross-examination held November 20, 2018**

9. Ascertain whether any monitoring reports or motion records were sent by Mr. Vincent to his client between March 8<sup>th</sup>, 2012 and May 2018. If they did receive such reports or records, did your client read them?

**Here is the information that I was able to retrieve from my electronic file:**

- **The Application Record was sent to my client on January 14, 2012**
- **The First Report of the Monitor was sent to my client on January 30, 2012**
- **The Fourth Report of the Monitor and the Motion Record returnable on June 15, 2012 were sent to my client on June 14, 2012**
- **The Fifth Report of the Monitor and the Motion Record returnable on October 25, 2012 were sent to my client on October 22, 2012**
- **The Sixth Report of the Monitor and the Motion Record returnable on February 28, 2013 were sent to my client on February 27, 2013**
- **The Eighth Report of the Monitor and the Motion Record returnable on December 17, 2013 were sent to my client on December 13, 2013**
- **The Motion Record returnable on April 29, 2014 was sent to my client on April 22, 2014**
- **The Eleventh Report of the Monitor and the Motion Record returnable on April 22, 2015 were sent to my client respectively on April 20 and April 19, 2015**

**My client did not read them.**

10. Advise whether your client knew there was one lawsuit with one court file number concerning the Huntsman and BASF settlement.

**Mr. Pomerantz was not aware.**

11. Ask Mr. Pomerantz if Domfoam was aware that the Orders attached to Vallecoccia's Affidavit at Exhibits "D" and "E" were made

**Terry Pomerantz was not aware of such orders.**

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Proceeding Commenced at Toronto

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Re: 18-2985